IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1765 OF 2005

IN

WRIT PETITION NO.4072 OF 2002

Group Gram Panchayat, Panchanadi .. Applicant

versus

Krishnaji Anand Modak & Ors. .. Respondents

...

Mr.V.M. Bhate for the petitioner.

Mr.S.R. Nargolkar AGP for respondent no.3.

Mr.P.P. Chavan for respondent no.4.

CORAM : S.B. MHASE AND

D.G.KARNIK, JJ

DATED : 10th August 2007.

P.C.:

. Heard learned counsel for the applicant and respondent nos.1 and 2 who are the original writ petitioners.

2. This Civil Application is filed for the purpose of vacating of the ad-interim stay granted by

this court on 21st February 2003. Learned counsel for the applicant submits that the order for stay was passed without hearing the present applicant. Hence the civil application for vacating the stay.

3. By the order of stay, recovery of the property tax has been stayed. Original Writ Petitioner no.1 is not even the holder of the house property. In any event, it is settled principle of law that recovery of a tax should not ordinarily be stayed and there are no special reasons for granting the stay. If the writ petitioners succeed, the tax paid can be ordered to be refunded and/or adjusted in the future taxes. In the circumstances, we see no reason to continue the stay and prevent recovery of the property tax without the revenue the very working of the applicant would be paralysed. Accordingly, civil application is allowed in terms of prayer clause (a).

(D.G. KARNIK, J) (S.B. MHASE, J)